

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Broker License of:

No. 06F-BD025-BNK

3 **DYNASTY MORTGAGE, LLC AND CURTIS**  
4 **WHITE, MANAGING MEMBER**

5 2633 E. Indian School Road, Suite 370  
Phoenix, Arizona 85016

6 Respondents.

**SUPERINTENDENT'S FINAL  
DECISION AND ORDER**

7 The Superintendent of Financial Institutions (the "Superintendent") having reviewed the record  
8 in this matter, including the Administrative Law Judge Decision attached and incorporated herein by  
9 this reference, adopts the Administrative Law Judge's Findings of Fact, Conclusions of Law and Order.

10 **ORDER**

11 IT IS ORDERED that the Respondent's mortgage broker license be revoked effective as of the  
12 date of this order.

13 **NOTICE**

14 The parties are advised that, pursuant to A.R.S. § 41-1092.09, this Order shall be final unless  
15 Respondents submit a written motion for rehearing no later than thirty (30) days after service of this  
16 decision. The motion for rehearing or review must specify the particular grounds upon which it is  
17 based as set forth in A.A.C. R20-4-1219. A copy shall be served upon all other parties to the hearing,  
18 including the Attorney General, if the Attorney General is not the party filing the claim of error. In the  
19 alternative, the parties may seek judicial review of this decision pursuant to A.R.S. § 41-1092.08(H).

20  
21 DATED this 26<sup>th</sup> day of April, 2006.

22  
23 

24 Bruce Tunell<sup>1</sup>  
25 Acting Superintendent of Financial Institutions  
26  
27

28 <sup>1</sup> The Superintendent has recused herself from this matter and, therefore, Bruce Tunell is serving as the Acting Superintendent.

1 ORIGINAL filed this 26<sup>th</sup> day of  
2 April, 2006, in the office of:

3 Felecia Rotellini  
4 Superintendent of Financial Institutions  
5 Arizona Department of Financial Institutions  
6 ATTN: June Beckwith  
7 2910 North 44th Street, Suite 310  
8 Phoenix, Arizona 85018

9 COPY of the foregoing mailed/hand delivered  
10 This same date to:

11 Lewis D. Kowal, Administrative Law Judge  
12 Office of Administrative Hearings  
13 1400 West Washington, Suite 101  
14 Phoenix, AZ 85007

15 Craig A. Raby, Assistant Attorney General  
16 Office of the Attorney General  
17 1275 West Washington  
18 Phoenix, AZ 85007

19 Robert D. Charlton, Assistant Superintendent  
20 Anthony Arroyo, Senior Examiner  
21 Arizona Department of Financial Institutions  
22 2910 N. 44th Street, Suite 310  
23 Phoenix, AZ 85018

24 AND COPY MAILED SAME DATE by  
25 Certified Mail, Return Receipt Requested, to:

26 Curtis White  
27 Managing Member  
28 Dynasty Mortgage, LLC  
5042 North 70<sup>th</sup> Street  
Paradise Valley, AZ 85253

BY: 

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**No. 06F-BD025-BNK**

# ADMINISTRATIVE LAW JUDGE DECISION

## Respondents.

**APPEARANCES:** Assistant Attorney General Craig Raby appeared on behalf of Arizona Department of Financial Institutions. Respondents did not appear at the hearing.

**ADMINISTRATIVE LAW JUDGE:** Lewis D. Kowal

## FINDINGS OF FACT

1. Dynasty Mortgage, LLC ("Dynasty") is an Arizona limited liability company authorized to transact business in Arizona as a mortgage broker, license number MB 0904008.
2. Curtis White ("Mr. White") is the managing member and 100% owner of Dynasty.
3. On or about December 14, 2005, the Arizona Department of Financial Institutions ("Department") was notified by North American Specialty Insurance Company that Dynasty's bond number SUR2036309 in the amount of fifteen thousand dollars (\$15,000.00) had been canceled as of December 5, 2005.
4. On December 15, 2005, the Department sent Dynasty and Mr. White a letter informing them that the Department had received notification of the cancellation of the above-mentioned bond. The Department also informed them of the statutory obligation of a mortgage broker licensee to maintain a bond and the need to replace the canceled bond.

1 5. Robert Charlton ("Mr. Charlton"), Assistant Superintendent in charge of  
2 supervising the Financial Services Division of the Department, testified that the  
3 Department did not receive any response to the above-mentioned notification letter.  
4 Mr. Charlton also testified that the Department's records reflect that Dynasty's canceled  
5 bond has not been replaced.

6 6. Upon receiving information about Dynasty's precarious financial situation, the  
7 Department conducted an examination of Dynasty's business affairs on March 7, 2005.

8 7. As a result of the March 7, 2005 examination, the Department determined that  
9 Dynasty had violated provisions of the State's Banking Laws and issued and served  
10 upon Dynasty and Mr. White a Cease and Desist Order, Notice of Opportunity for  
11 Hearing; Consent to Entry of Order on April 29, 2005.

12 8. Dynasty and Mr. White filed with the Department a request for hearing to appeal  
13 the above-mentioned Cease and Desist Order.

14 9. On July 22, 2005, a hearing was held in Docket No. 05F-BD042-BNK before  
15 Office of Administrative Hearings Administrative Law Judge Kay Abramsohn.

16 10. On August 11, 2005, Judge Abrahamson issued a Decision in Docket No. 05F-  
17 BD042-BNK setting forth Findings of Fact, Conclusions of Law and Recommended  
18 Order wherein violations of the State's Banking laws were found to have occurred.

19 11. On August 19, 2005, the Superintendent of the Department ("Superintendent")  
20 issued a Final Decision and Order in Docket No. 05F-BD042-BNK adopting the  
21 Findings of Fact and Conclusions of Law of Judge Abramsohn's Decision and  
22 modifying and adopting in part the Recommended Order.

23 12. The Superintendent adopted the Administrative Law Judge's recommendation in  
24 Docket No. 05F-BD042-BNK to increase the civil penalty from \$20,000.00 to  
25 \$40,000.00 and affirmed all other terms of the Cease and Desist Order.

26 13. In the Final Decision and Order issued in Docket No. 05F-BD042-BNK, the  
27 Superintendent ordered Dynasty and Mr. White to pay the \$40,000.00 civil penalty  
28 within thirty (30) days of the effective date of the Order, to come into full compliance  
29 with all of the terms of the Cease and Desist Order within thirty (30) days of the  
30 effective date of the Order and to correct all violations found in the Findings of Fact of  
the Cease and Desist Order and the March 23, 2005 Examination Report.

1 14. On September 15, 2005, Dynasty and Mr. White filed a Request for Rehearing in  
2 Docket No. 05F-BD042-BNK.

3 15. On October 27, 2005, the Superintendent entered an Order in Docket No. 05F-  
4 BD042-BNK denying the above-mentioned Request for Rehearing.

5 16. The Department has not been notified that Dynasty or Mr. White has filed an  
6 appeal for judicial review of the administrative decision in Docket No. 05F-BD042-BNK  
7 with the Maricopa County Superior Court.

8 17. Mr. Charlton testified that the time for judicial review of the administrative  
9 decision in Docket No. 05F-BD042-BNK has expired and the Superintendent's Final  
10 Decision and Order is the final administrative decision in that matter.

11 18. The Superintendent's Final Decision and Order in Docket No. 05F-BD042-BNK  
12 provided that the failure of Dynasty or Mr. White to comply with the terms of the Order  
13 would result in disciplinary action being instituted for revocation of Dynasty's mortgage  
14 broker's license.

15 19. Mr. Charlton testified:

- 16 a. Dynasty and Mr. White have not paid the \$40,000.00 civil penalty and  
17 have not fully complied with the terms and conditions of the  
18 Superintendent's Final Decision and Order issued in 05F-BD042-BNK.
- 19 b. The Department became concerned as to the solvency of Dynasty,  
20 particularly in light of the Notice of Apparent Liability for Forfeiture issued  
21 by the Federal Communications Commission on March 1, 2005,  
22 assessing a seven hundred seventy thousand (\$770,000.00) forfeiture  
23 against Dynasty for violations of the "Do Not Call List".
- 24 c. The financial records obtained from Dynasty during an examination  
25 conducted from October 20, 2005 through October 25, 2005, by Anthony  
26 Arroyo ("Mr. Arroyo"), an examiner with the Department, shows that  
27 through September 30, 2005, Dynasty had a net operating loss of one  
28 hundred fifteen thousand six hundred fifty-nine dollars and twenty-three  
29 cents (\$115,659.23).
- 30 d. On October 19, 2005, the Department received a complaint against  
Dynasty from Paragon Appraisal ("Paragon") for three appraisal invoices,

1 which were conducted on behalf of Dynasty that have gone unpaid. The  
2 total of the three appraisals conducted in October 2004 is \$1,200.00.

- 3 e. On October 19, 2005, the Department sent a letter to Dynasty and Mr.  
4 White informing them of the Paragon complaint and enclosed a copy of  
5 the complaint. The Department requested that a response be filed along  
6 with supporting documentation within ten days.  
7 f. Neither Dynasty nor Mr. White have responded to the above-mentioned  
8 letter.  
9 g. On November 7, 2005, the Department sent a follow up letter to Dynasty  
10 and Mr. White requesting that they address the Paragon complaint.  
11 h. To date, the Department has not received any response from Dynasty or  
12 Mr. White with respect to the Paragon complaint and has not received any  
13 documentation or information to indicate that the invoices have been paid.

14 20. Mr. Arroyo's October 2005 examination of the business of Dynasty revealed that  
15 Dynasty has not fully complied with the above-mentioned Final Decision and Order of  
16 the Superintendent as follows:

- 17 a. On Dynasty's website, as of March 3, 2006, Dynasty does not include its  
18 mortgage broker's license number as required by law and does not  
19 indicate that it has closed its business as a mortgage broker.  
20 b. Dynasty failed to maintain correct and complete records at all times by  
21 failing to provide the Department with a formal log of all executed loan  
22 applications.  
23 c. Dynasty has failed to maintain financial solvency since January 31, 2005.  
24 d. Dynasty unlawfully imposed in its appraisal disclosures, a ten day limit in  
25 which a borrower may request and obtain a copy of the appraisal.  
26 e. Dynasty did not produce complete and sufficient records showing the  
27 conciliation of the operating account since the previous examination.  
28 f. Dynasty presented a reconciliation at the end of the examination which  
29 reflected a negative amount.  
30

- 1 g. Dynasty failed to obtain written authorization to complete blank spaces in  
2 documents before permitting two borrowers, Justo J. Gutierrez and  
3 Lorena Gutierrez, to sign mortgage loan applications.
- 4 h. Dynasty failed to comply with Title I of the Consumer Credit Protection Act  
5 (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement  
6 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations  
7 promulgated under these acts, specifically failing to issue or maintain  
8 originals or copies of certain Truth-in Lending and Mortgage Servicing  
9 Transfer disclosures in two files pertaining to Rafael Ramirez and Patrick  
10 Bailey.
- 11 i. Dynasty failed to produce or have deposit slips available during the  
12 examination for its bank account.
- 13 j. Mr. White was absent during the entire time when the examination was  
14 conducted and failed to show that he maintained active management of  
15 Dynasty's business activities.

16 21. While conducting the examination, Mr. Arroyo noticed Dynasty's office to be in  
17 disarray and learned from several of its employees that Dynasty had closed its business  
18 and laid off most of its employees.

19 22. Neither Dynasty nor Mr. White have officially notified the Department that  
20 Dynasty's mortgage broker business is closed.

### 21 CONCLUSIONS OF LAW

22 1. The Superintendent has been vested with the authority to regulate persons  
23 engaged in the mortgage broker business and has the duty to enforce statutes and  
24 rules relating to mortgage brokers. See A.R.S. § 6-901 *et seq.*

25 2. The Department bears the burden to prove by a preponderance of the evidence  
26 that Dynasty has violated State laws pertaining to mortgage brokers. See A.A.C. R2-  
27 19-119. A preponderance of the evidence is "such proof as convinces the trier of fact  
28 that the contention is more probably true than not." Morris K. Udall, ARIZONA LAW OF  
29 EVIDENCE § 5 (1960).  
30

1 3. Credible evidence established that Dynasty and Mr. White failed to maintain a  
2 surety bond in the amount of \$15,000.00 as required by A.R.S. §§ 6-903(G) and (H) or  
3 provide for an alternative as provided in A.R.S. § 6-903(J).

4 4. Credible evidence was presented as set forth in the above Findings of Fact  
5 establishing that Dynasty and Mr. White failed to comply with the Superintendent's Final  
6 Decision and Order issued in Docket No. 05F-BD042-BNK.

7 5. Credible evidence was presented that established Dynasty is insolvent within the  
8 meaning of A.R.S. § 47-1201(23), in violation of A.R.S. § 6-905(A)(1).

9 6. The Department alleged that Mr. White's and Dynasty's actions and failure to  
10 take certain actions are violations of Arizona statutes and rules as follows:

- 11 a. A violation of A.R.S. § 6-903(M) by failing to include the mortgage broker's  
12 license number as issued on the principal place of business license on  
13 Dynasty's internet website;
- 14 b. A violation of A.A.C. R20-4-917(C) by failing to have reconciled its  
15 operating account bank statements since the previous examination
- 16 c. A violation of A.R.S. § 6-906(A) and A.A.C. R20-4-917(B)(1) by failing to  
17 maintain current and complete records.
- 18 d. A violation of A.R.S. § 6-906(D) and A.A.C. R20-4-917(B)(6)(e) by failing  
19 to comply with disclosure requirements of Title I of the Consumer Credit  
20 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate  
21 Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the  
22 regulations promulgated under these acts, specifically failing to issue or  
23 maintain originals or copies of certain Truth-in Lending and Mortgage  
24 Servicing Transfer disclosures in two files pertaining to Rafael Ramirez  
25 and Patrick Bailey.
- 26 e. A violation of A.R.S. § 6-906(C) by using appraisal disclosures that  
27 included unlawful 10-day on the amount of time a borrower could request  
28 an appraisal for which the borrower had paid.
- 29 f. A violation of A.A.C. R20-4-917(B)(4) by failing to maintain bank account  
30 activity source documents for the mortgage broker business, specifically



1 failing to have deposit receipts available at the time of the October 2005  
2 examination.

3 g. A violation of A.R.S. § 6-909(A) and A.A.C. R20-4-921 by failing to obtain  
4 written authorization to complete blank spaces in regulated documents  
5 before permitting two borrowers Justo J Gutierrez and Lorena Gutierrez to  
6 sign mortgage loan applications that contained blank spaces.

7 h. A violation of A.R.S. § 6-903(E) by failing to ensure that Mr. White, the  
8 Responsible Individual, as defined in A.A.C. R4-204-102, maintained a  
9 position of active management of the activities of Dynasty at all times.

10 7. The Administrative Law Judge concludes that the Department has met its burden  
11 of proving by a preponderance of the evidence that Dynasty and Mr. White violated the  
12 above-mentioned statutes and rules.

13 8. The Superintendent has the authority to suspend or revoke a mortgage broker's  
14 license if it is determined that Dynasty is insolvent, if Dynasty or Mr. White has violated  
15 any applicable law or rule or order, and/or if Dynasty or Mr. White has failed to furnish  
16 any information or make any report that is required by the Superintendent. See A.R.S.  
17 §§ 6-905(A)(1), (A)(3) and (A)(4).

18 9. Pursuant to A.R.S. § 41-1092.11, the Superintendent has the authority to  
19 suspend Dynasty's mortgage broker's license if emergency action is required to protect  
20 the health, safety and welfare of the public.

21 10. Based on the above, grounds existed for the issuance of the Order of Summary  
22 Suspension of Dynasty's mortgage broker's license.

23 11. Based on the above, grounds exist for the revocation of Dynasty's mortgage  
24 broker's license pursuant to A.R.S. §§ 6-905(A)(1), 6-905(A)(3), and 6-905(A)(4).

25 12. Pursuant to A.R.S. § 6-123, grounds exist for pursuit of any other remedy  
26 necessary or proper for the enforcement of statutes and rules regulating mortgage  
27 brokers and for the imposition of a civil penalty pursuant to A.R.S. § 6-132.

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1  
2 ORDER

3 Based on the above, on the effective date of the Order entered in this matter,  
4 Dynasty's Arizona mortgage broker's license shall be revoked.

5 Done this day, March 28, 2006.

6 Lewis D. Kowal  
7 Lewis D. Kowal  
8 Administrative Law Judge  
9

10  
11 Original transmitted by mail this  
12 29 day of March, 2006, to:

13  
14 Arizona Department of Financial Institutions  
15 Felecia Rotellini, Superintendent  
16 ATTN: June Beckwith  
17 2910 North 44th Street, Suite 310  
18 Phoenix, AZ 85018

19 By Chris Fishler  
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